

JC, 01997.027000

PATENT APPLICATION

1637
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12-12-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

~~In re Application of:~~

MICHAEL R. BOWMAN

Application No.: 09/921,994

Filed: August 3, 2001

For: NOVEL EBI-3-ALT PROTEIN
AND NUCLEIC ACID
MOLECULES AND USES
THEREFOR

Examiner: Jeffrey Norman Fredman
Group Art Unit: 1637

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December 4, 2002

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Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

Applicants respond to the Official Action dated November 6, 2002 (Paper No. 9) in the above-identified application, as follows.

REMARKS

In the outstanding Office Action, the Examiner required that Applicants elect for prosecution one of the inventions among Groups I-VIII for the reasons noted.

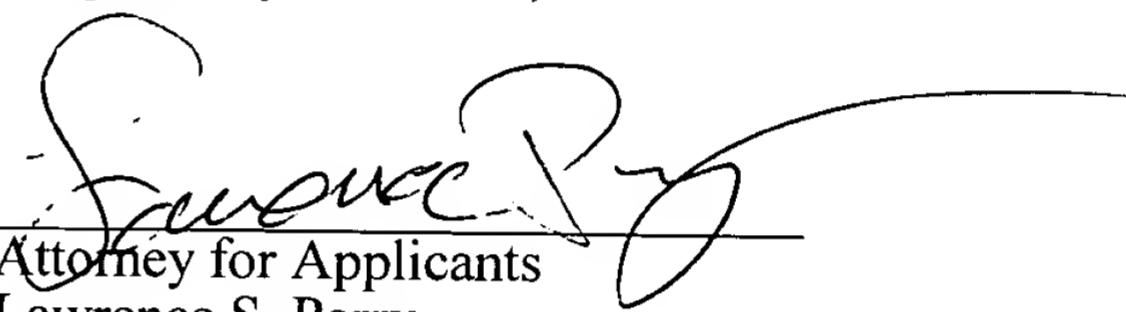
In response, Applicants hereby elect to prosecute the invention of Group I, namely Claims 1-6 and 18, drawn to nucleic acids and host cells. However, Applicants wish to point out to the Examiner the Commissioner's Official Gazette Notice of March 4, 1996 "Guidance on Treatment of Product and Process Claims" which addresses the issue of processes "limited to making or using a nonobvious product" and stated that claims to the

nonelected process should be rejoined when a product claim is found allowable and the withdrawn process contains all the limitations of an allowed product claim.

Entry hereof is earnestly solicited.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



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